

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>TruePosition, Inc.,</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	<b>Civil Action No. 05-747-SLR</b>
<b>v.</b>	)	
	)	
<b>Andrew Corporation,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**APPENDIX B TO TRUEPOSITION'S BRIEF IN OPPOSITION  
TO ANDREW CORPORATION'S *DAUBERT* MOTION FOR  
A RULING LIMITING THE TESTIMONY OF DR. ODED GOTTESMAN**

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1           IN THE UNITED STATES DISTRICT COURT  
2           IN AND FOR THE DISTRICT OF DELAWARE

3           ---

4 TRUEPOSITION, INC.,           :   CIVIL ACTION

5           Plaintiff           :

6           vs.                :

7 ANDREW CORPORATION,        :

8           Defendant         :   NO. 05-747 (SLR)

9           ---

10                           Wilmington, Delaware  
11                           Tuesday, April 10, 2007  
12                           8:30 o'clock, a.m.

12           ---

13 BEFORE: HONORABLE SUE L. ROBINSON, Chief Judge

14           ---

15 APPEARANCES:

16           CONNOLLY, BOVE, LODGE & HUTZ LLP  
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18           -and-

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24           Counsel for Plaintiff

25                           Valerie J. Gunning,  
                            Official Court Reporter

1 brief tutorial, just relevant to this issue.

2 THE COURT: All right.

3 MR. DESMARAIS: But, unfortunately, we set up  
4 our computer at the podium, so if you don't mind.

5 THE COURT: That's fine. If you all feel  
6 better standing up. At least you all will get your  
7 exercise.

8 MR. PARKS: Thank you, your Honor. I will make  
9 this very brief on the tutorial.

10 It kinds of makes sense before we launch into  
11 the reverse control channel discussion just to provide  
12 some very brief background on the U-TDOA technology that's  
13 at issue in this case. And what U-TDOA stands for is  
14 uplink time difference of arrival, and it's a way of  
15 calculating the location of a mobile phone.

16 So what we have here is a mobile phone that's  
17 submitting signals, and these signals are being picked up  
18 by various base stations which are labeled A, B, C and D  
19 on the graph here.

20 And as you can see as the signals arrive to  
21 each of the respective base stations, a time of arrival of  
22 that signal is calculated.

23 So each base station calculates its own time  
24 of arrival and, in this case, there are four base stations.

25 What happens then is that the respective times

1 of arrival are put into a processor and calculations are  
2 performed. And the purpose of those calculations is to  
3 estimate the location of the cellular phone.

4 And what's important here is that there are  
5 two ways location is estimated within the '144 patent.  
6 Two steps, I should say. The first step is to calculate  
7 the differences in the time of arrival and that's done  
8 by what the patent identifies as a cross-correlation  
9 function.

10 The second step is to calculate the actual  
11 location of the phone. And for that the patent describes  
12 using what's called a least square estimation function.

13 We get into the reverse control channel. I  
14 thought what might be helpful is to provide a brief  
15 background about that before we delve into the particular  
16 issues.

17 As TruePosition says in its brief, responsive  
18 Markman brief, reverse control channel is dispositive of  
19 the summary judgment motions pending before the Court.

20 One thing that I think is going to be helpful  
21 as we go forward, specially for the noninfringement  
22 motions and also with Markman, is to understand the  
23 difference between the reverse control channel in the  
24 patent and the stand-alone dedicated control channel that's  
25 used in Andrew's products.

1 fide basis, draw the attention of ETSI to any of that  
2 member's IPR, that means intellectual property rights,  
3 which might, might, be essential if that proposal is  
4 adopted.

5 I showed you their deposition testimony. They  
6 knew at the time they submitted the feasibility study that  
7 their view was the '144 was essential. They said it.  
8 That was their conclusion at the time.

9 Clearly, they fall within the express mandate  
10 of the ETSI rules, saying if you're making a proposal,  
11 where you have IPR that might be essential, you have to  
12 disclose it, and in this particular case, they didn't.

13 Now, one of their arguments is that, now, there  
14 might be technically a way to do it otherwise, right. But  
15 if you look at the next part of the ETSI rule, it's not  
16 talking about theoretical. Right.

17 It says, under the ETSI policy, and, again,  
18 this is in our appendix at B154, essential as applied to  
19 IPR, intellectual property rights, means that it is not  
20 possible on technical, but not commercial grounds, but  
21 then it goes on to say, taking into account normal  
22 technical practice and the state of the art generally  
23 available at the time of the standardization.

24 Even today, U-TDOA is the only way, on the  
25 reverse channel, is the only way that it's done. It's

1 the only way it can work in today's cellular telephone  
2 environment. It's true, maybe if we change the entire  
3 cellular network, we could do it another way, but with  
4 the current cellular network that's distributed around the  
5 world, this is the only way to do it. And that clearly  
6 falls within normal technical practices in state of the art  
7 generally.

8 Their position is hypothetically, you could  
9 have designed a different cellular telephone network, and  
10 then if you did that, well, maybe you could locate them  
11 in a different way.

12 And this isn't just me saying this. Their own  
13 expert has admitted that.

14 If you look at -- well, first of all, let me  
15 show you their 30(b)(6) testimony. I will show you their  
16 expert. The 30(b)(6) deposition, you said that you are  
17 not aware of any particular GSM systems that specifically  
18 assign a traffic channel for purposes of an idle mode  
19 location; right?

20 That's correct. Certainly one of the RAN  
21 vendors, and those are the cellular equipment  
22 manufacturers, can implement that. In other words, if  
23 they change the entire cellular network.

24 Question: Well, my question is a little  
25 different. I'm just saying to clarify. You are not aware

**CERTIFICATE OF SERVICE**

I, James D. Heisman, hereby certify that on this 4<sup>th</sup> day of June, 2007, I caused a true and correct copy of the foregoing **APPENDIX B TO TRUEPOSITION'S BRIEF IN OPPOSITION TO ANDREW CORPORATION'S DAUBERT MOTION FOR A RULING LIMITING THE TESTIMONY OF DR. ODED GOTTESMAN** to be served upon the following individuals in the manner indicated below:

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